IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

CIVIL APPLICATION NO.4859 of 2005.
IN
FIRST APPEAL NO. 172 OF 2007.

Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Shri Amit Borkar for the Applicant.

Shri S.A.Bhagwat i/by M/s.V.Deshpande & Co.for the Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 31st January, 2007.

P.C.:

1. Heard the Advocates appearing for the Applicant and the 1st Respondent. The impugned decree is in the nature of a money decree. Apart from the prayer for stay, an alternative prayer is made in this Application for grant of yearly instalments. However, the Applicant has not filed an undertaking disclosing the amount of yearly instalment which he proposes to pay. Unless and until such an undertaking is filed, the prayer for grant of instalments cannot be considered.

2. In the meanwhile the decree passed by the

trial Court can be stayed subject to the Applicant depositing the entire decretal amount with the trial Court.

3. Hence the Civil Application is disposed of by the following order:

i) There will be interim relief in terms of prayer clause (b) subject to the Applicant depositing in the trial Court the entire decretal amount due and payable under the impugned decree as of today on or before 4th May 2007.

ii) If the amount is not deposited, the Application will stand dismissed for non-prosecution without further reference to the Court. If the amount is deposited, the trial Court will permit the 1st Respondent to withdraw the amount subject to final outcome of the Appeal.

iii) Liberty to take out a separate application for grant of prayer clause (c) provided proper undertaking is filed by the Applicant.

Judge.